

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. SACV 15-00508-CJC(JCGx)

Date: October 21, 2015

Title: ORLY TAITZ V. SYLVIA BURWELL

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Melissa Kunig
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS) ORDER DENYING PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S MOTION TO DISMISS [Dkt. 18] AND EXTENDING BRIEFING SCHEDULE FOR DEFENDANT'S MOTION TO DISMISS [Dkt. 17]

Plaintiff Orly Taitz brings this case against defendant Sylvia Burwell in Ms. Burwell's capacity as the Secretary of the U.S. Department of Health and Human Services (HHS). Ms. Taitz alleges that she filed a Freedom of Information Act (FOIA) request with the Center for Disease Control (CDC)—an agency within HHS—on November 3, 2014 and that the CDC has not adequately responded to the request. Ms. Taitz seeks a court order directing Ms. Burwell to provide her with the response to her FOIA request and a court order directing HHS to provide Ms. Taitz with an index enumerating all documents in the agency's possession that are responsive to the FOIA request.

Ms. Taitz filed her complaint into the U.S. District Court for the Southern District of Texas in December 2014, and the Government filed a motion to dismiss her complaint in February 2015. (Dkt. 4). Ms. Taitz filed a brief in opposition, (Dkt. 5), and the Government filed a reply, (Dkt. 6). During a telephonic conference in which the Government's motion to dismiss was argued, the Government asserted that venue for the FOIA lawsuit was improper in the Southern District of Texas under 5 U.S.C. § 552(a)(4)(B). (Dkt. 10.) The district court in the Southern District of Texas transferred

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the case to the Central District of California, which is a proper venue under § 552(a)(4)(B) because Ms. Taitz resides here.

After the transfer, this Court issued an order denying without prejudice the Government's then-still-pending motion to dismiss and directing the Government to file a renewed motion to dismiss in this Court. (Dkt. 16.) The Government filed an updated motion to dismiss. (Dkt. 17.) Rather than filing a substantive response to the Government's motion, Ms. Taitz filed a motion to strike the Government's motion on the basis that it was not the same motion that had been filed in the Southern District of Texas. (Dkt. 18.) Ms. Taitz's motion to strike is hereby DENIED. The Court will consider the updated version of the motion to dismiss that the Government filed.

The Court will give Ms. Taitz a full opportunity to respond to the motion to dismiss her case. The October 26, 2015 hearing set to argue the motion to strike and the motion to dismiss is hereby vacated. Having read and considered the papers presented by the parties, the Court finds the matter of the motion to strike appropriate for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15. The Court hereby reschedules the hearing on the Government's September 21 motion to dismiss (Dkt. 17) for **Monday, November 23, 2015**. Ms. Taitz is instructed to file her response in opposition to the Government's September 21 motion to dismiss no later than **November 9, 2015**. The Government is instructed to file its reply brief no later than **November 16, 2015**.

IT IS SO ORDERED

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Initials of Deputy Clerk MKU